



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/577,170

12/13/2006

Young-Woo Kim

4220-127 US

1116

26817 7590 10/12/2011
MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

EXAMINER

LEUBECKER, JOHN P

ART UNIT

PAPER NUMBER

3779

MAIL DATE

DELIVERY MODE

10/12/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,170	Applicant(s) KIM, YOUNG-WOO	
	Examiner John P. Leubecker	Art Unit 3779	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 9, 2011 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk (U.S. Pat. 5,368,015).

Referring mainly to Figures 9, 10A and 10B, Wilk discloses a stereoscopic laparoscope apparatus comprising a stereoscopic laparoscope (Fig.10A, col.10, lines 48-49), a computer (44, Fig.1, col.5, lines 63-68) adapted to convert and store stereoscopic image information of the patient's affected part inputted via the stereoscopic laparoscope, and a monitor (46, Fig.1) used to output the stereoscopic image information converted by the computer (col.2, lines 19-36 and col.8, lines 40-50), the stereoscopic laparoscope comprising: a parallel supporting unit (344,330, Fig.10A) including a binocular assembly (330,332a,332b) providing stereoscopic vision having a

Art Unit: 3779

supporting rod (330) having a predetermined length and diameter; a flexible tube unit (332a,332b) including a pair of left (332a) and right (332b) flexible tubes which are driven apart and adjustable within a predetermined angle range (note distance d1 in Figures 9 and 10B) installed at the tip end of the supporting unit (Fig.10B); and a pair of left and right cameras (312,314, Fig.9) installed at the tip end of the flexible tube unit (col. 11, lines 29-32) so that they take images of the affected part in the abdominal cavity. Wilk discloses that the flexible tubes can be spaced apart using an active actuator such as a tension cable assembly (col.11, lines 21-28). Wilk clearly intends for the stereoscopic laparoscopic componentry of Figures 9-13 to be used in place of the monoscopic laparoscope (16) in Figure 1 (note col.4, lines 49-57 and col.10, lines 7-10). Thus, any actuator for driving the flexible tubes would be analogous to that exemplified by the tip bend control (36) in Figure 1, which is controlled by computer (22) via electric signals (col.5, lines 52-55). In such case, the analogous computer/switching circuit (326, Fig.10A) would anticipate a manipulator on the proximal end of the support unit and controlling the active actuator (e.g., motor) according to electric signals. As the cameras (312,314) are actively spaced apart by the flexible tubes and movable with the entire assembly, they are adapted to take stereoscopic images from different directions and distances during laparoscopic surgery. Furthermore, the image information taken by the cameras is stored and converted by the computer so as to display three-dimensional images (col.2, lines 19-26 and col.8, lines 40-50).

Although support rod (330) includes of two split prongs (332a,332b) at the distal end, in would appear that the supporting rod (330) (connected proximally to the flexible tubes) is a single tube (note in Figure 10B that the support rod 330 appears to be bifurcated since the

Art Unit: 3779

separation between the flexible tubes appears to stop at the proximal ends of the flexible tubes). Thus, Wilk fails to disclose that the supporting unit includes a pair of parallel left and right supporting rods. However, use of two parallel tubes in place of a single tube does not constitute inventive effort and thus does not distinguish over the prior art of record. One of ordinary skill in the mechanical arts would recognize that, without criticality, a single tube or two parallel tubes, both used for the same purpose (as a support unit for the laparoscope) and both providing the same functions (supporting the flexible tubes and containing elements such as wires) would be obvious over one another as a matter of choice in design. In addition, one would be motivated to use two separate tubes for the support unit (330) of Wilk since such would provide a simpler alternative to forming a bifurcation at the distal end of a single tube, such bifurcation requiring special techniques over simply attaching two parallel tubes together. Since Applicant provides no criticality for specifying the use of two parallel tubes over use of a single tube and one of ordinary skill would have reasons for the alternative use of a single tube and two parallel tubes as discussed above, it would have been obvious to have used two parallel "support rods" in place of the single tube (330) in Wilk.

Response to Arguments

4. Applicant's Remarks filed September 9, 2011 have been fully considered but they are not persuasive.

Conclusion

5. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art

Art Unit: 3779

of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571)272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John P. Leubecker/
Primary Examiner
Art Unit 3779

jpl

Application/Control Number: 10/577,170

Page 6

Art Unit: 3779